

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13096, of First Baptist Church, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3104.44 to continue the operation of a parking lot in an R-5-B District at the premises 1513-19 O Street, N.W. (Square 195, Lots 74, 75, 830, 840, 71 and 111).

HEARING DATE: November 28, 1979
DECISION DATE: December 5, 1979

FINDINGS OF FACT:

1. The subject parking lot is located at the northwest corner of 15th and "O" Streets, N.W. It is known as 1513-19 O Street, N.W. and is in an R-5-B District.

2. The subject parking lot is owned by the applicant, First Baptist Church, and is leased to Parking Management, Inc.

3. The subject parking lot is located in a mixed-use neighborhood, the predominant uses being residential and institutional. Institutional uses line Massachusetts Avenue and 16th Street. High density apartment buildings and hotels are concentrated along Rhode Island Avenue east of Scott Circle. Extensive lower density residential development, primarily flats and row houses, is located north and west of the subject square. East of 15th Street, the character of the area changes. The properties therein are devoted to light industrial and auto related uses with mixed residential. The subject square includes a mixture of residential and institutional uses. Some row structures within the square have been converted from residential to office use. There are a large number of commuter parking lots located in and around the area.

4. The Board approved an application on July 15, 1959 to establish a temporary parking lot for five years on lots 74 and 830 in BZA Order 5583. The Board approved applications on October 10, 1960 to establish temporary parking lots 108, 109 and 110 for five years in BZA Orders 6088, 6089 and 6090. On March 30, 1961 the Board granted permission to continue operation of the parking lot on lots 74, 75 and 830 for an additional five years in BZA Order No. 6239. The Board granted permission on November 29, 1966 to continue operation of that lot and the parking lot on lots 108, 109 and 110 for five years in BZA Order 8984. The Board on February 11, 1972 granted permission to continue operation of the lot for another five years and to establish a temporary parking lot on Lots 71 and 111. In BZA Order No. 12387 dated September 21, 1977 the Board granted the continuance of the parking lot for TWO YEARS.

The Board concurs in some of the objections expressed by the opposition which will be discussed in its Conclusions of Law. The Board does not concur with the argument that the subject property could be used for residential purposes. In the subject application the applicant must meet the burden of proof required under Paragraph 3104.44 of the Zoning Regulations for the special exception to be granted. The applicant is not required to show that the lot cannot be used for residential purposes.

11. A representative of Advisory Neighborhood Commission - 2B testified that at its meeting of November 14, 1979, the ANC voted unanimously to oppose the application. The ANC alleged that the existence of the parking lot has an adverse affect on the neighborhood generally and on residential development therein. The ANC further state that there is a great need for housing rather than parking lots, that crime occurs on the lot, that the lot is ugly and littered, that there is an adverse affect upon the environment from the commuter traffic to and from the lot and that because of the excellent mass transit service there is no need for the subject parking lot.

The Board advised the representative of the ANC at the hearing that in Order for the Board to give great weight to the issues and concerns of the ANC as required by statute, the recommendations of the ANC must be reduced to writing and submitted to the record. This was not done. Accordingly, the Board need not apply the great weight consideration.

12. The applicant submitted a petition signed by approximately twelve neighbor residents in support of the application.

CONCLUSIONS OF LAW:

Based on the record, the Board concludes that the applicant is seeking a special exception. The Board, in granting the special exception, must be satisfied that the applicant has met the burden of proof in complying with Paragraph 3104.44 and Sub-section 8207.2 of the Zoning Regulations, the sections under which the application was brought. The Board concludes that the applicant offered no evidence that no dangerous or otherwise objectionable traffic conditions shall result from the continued use of the parking lot and that the present character and future development of the neighborhood will not be affected adversely as required under Sub-paragraph 3104.443 of the Zoning Regulations. The provisions of Paragraph 3104.44 have not been met. As to a further requirement that the parking lot is reasonably necessary and convenient to other uses in the vicinity,

5. The subject parking lot is approximately 18,600 square feet in area and it accommodates eighty-four cars. The hours of operation are from 7:00 a.m. to 6:00 p.m., Monday through Friday. The lot is an attendant controlled facility. The lot is used for commercial parking.

6. On Wednesday nights and on Sunday the parking lot is used by the applicant for the members of its church. At all other times after the closing of business for the day, the lot is available for all uses of the neighborhood. There is an attendant. The parking lot is unlocked. The subject lot is one block removed from the church.

7. The applicant owns other lots in the immediate area which are used or are contemplated as being used for commercial parking lots. The applicant also owns a lot that is adjacent to the church that accommodates sixty cars for the church members. On this latter lot the applicant is planning to erect a four story educational building that will be used for church purposes. The applicant testified that there will be no underground parking in the new building since it will be too expensive to construct. The applicant proposes to retain the subject lot to service its member's parking needs. The applicant testified that ninety percent of the church membership uses automobiles to arrive at the church.

8. The subject area is well served by public transportation including north-south and east-west Metro bus service. The subject lot is within 200 feet of the Dupont Circle subway station.

9. Pursuant to Paragraph 3104.44 of the Zoning Regulations, the application was referred to the Department of Transportation for its review and report. No report was received.

10. There was opposition to the application on the part of an individual property owner who lived across the street from the subject property and on behalf of the Dupont Circle Citizens Association. The grounds for the opposition were that the lot was a visual eyesore that it collects litter between the sidewalk and parking surface that is not removed, that the lot is a location for crime and that there is no dearth of parking lots in the immediate vicinity all of which are reasonable alternatives to the subject parking lot. The opposition further opposed the application on the grounds that the applicant has rejected offers to sell the subject lot for residential development, that the applicant has no plans to develop the subject lot but intends to keep it as a parking lot for the purpose of income, and that former parking lots in the immediate vicinity are being or have been developed recently for residential use. The opposition alleged that a parking lot adversely affects the present character and future development of the neighborhood and that the present tax-free status of the subject lot deprives the District of Columbia of needed revenue.

the Board concludes that it serves as a convenience to the neighborhood, but that it is not reasonably necessary. The Board notes that there are many commercial parking lots in the subject area. The Board further notes that the subject area is well served by public transportation.

The Board further notes the objections raised by local residents and citizens groups. The arguments raised by the opposition generally related to all parking lots, and do not basically deal with the facts at issue herein. However, as noted in Finding of Fact No. 10, there were complaints concerning this lot and the litter which accumulates on and around it. The Board concludes that this particular lot is unattractive and creates an adverse effect on the use of neighboring property for residential purposes.

The Board further notes that no written report was received from Advisory Neighborhood Commission 2B, even though the Board specifically advised a representative of the ANC at the hearing that a written report was required. The Board has not given great weight to the issues and concerns of the ANC as expressed at the hearing, and concludes that it is not required to do so.

For all the above reasons, the Board concludes that the special exception can not be granted. Accordingly, it is ORDERED that the application is DENIED.

VOTE: 3-1 (Walter B. Lewis, Connie Fortune and William F. McIntosh to DENY; Leonard L. McCants OPPOSED, Charles R. Norris not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 7 APR 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."